



## Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact [support@jstor.org](mailto:support@jstor.org).

**2. Master and Servant (§ 235 (13)\*)—Assumption of Risk—Tools and Appliances.**—Plaintiff holding a rail and turning it while others were cutting it with a cold chisel, and who claimed he did not see the frazzled edges of the head of the chisel, but who could have seen it had he looked, assumed the risk of dangers incident to his employment which were open and obvious, such as the danger of being struck by a sliver from the chisel, and could not excuse himself by his failure to look and see.

[Ed. Note.—For other cases, see Master and Servant, Cent. Dig. § 718; Dec. Dig. § 235 (13).\* 9 Va.-W. Va. Enc. Dig. 693.]

Error to Circuit Court, Amherst County.

Action by John Burford against the Southern Railway Company. Judgment for plaintiff, and defendant brings error. Reversed, and judgment entered, sustaining the demurrer to the evidence and dismissing the plaintiff's case.

*Coleman, Easley & Coleman*, of Lynchburg, and *Robert B. Tunstall*, of Norfolk, for plaintiff in error.

*Wm. K. Allen*, of Amherst, for defendant in error.

---

MILLBORO LUMBER CO., Inc. v. DONALD.

Nov. 16, 1916.

[90 S. E. 618.]

**1. Master and Servant (§ 101, 102 (5)\*)—Master's Duty—Appliances.**—It is the master's duty to furnish the servant with reasonably safe appliances with which to perform the duty he is ordered to perform.

[Ed. Note.—For other cases, see Master and Servant, Cent. Dig. § 180; Dec. Dig. § 101, 102 (5).\* 9 Va.-W. Va. Enc. Dig. 674.]

**2. Master and Servant (§ 256 (1)\*)—Action for Injury—Sufficiency of Declaration.**—Where a declaration in a servant's action for injury showed the relation between the plaintiff and defendant, the legal duty owing from the defendant to him, the defendant's breach of such duty, and resulting damages to the plaintiff, a demurrer thereto was properly overruled.

[Ed. Note.—For other cases, see Trial, Cent. Dig. § 603; Dec. Dig. § 809; Dec. Dig. § 256 (1).\* 9 Va.-W. Va. Enc. Dig. 674.]

**3. Trial (§ 252 (11)\*)—Instructions—Evidence.**—In a servant's action for injury, an instruction on the law of fellow servants was properly refused, where all the evidence showed that the one under whose order the servant was working was the agent and representa-

---

\*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

tive of the master; and that his negligence in failing to supply suitable appliances for the work required of the servant was a breach of duty for which the master was liable.

[Ed. Note.—For other cases, see Trial, Cent. Dig. § 603; Dec. Dig. § 252 (11).\* 6 Va.-W. Va. Enc. Dig. 11.]

**4. Master and Servant (§ 294 (6)\*)—Action for Injury—Instructions—Admission.**—In such action defendant's given instruction that plaintiff must prove by a preponderance of the evidence that one who was in charge of the work directed plaintiff to cross from one trestle or bent to another on a tackle rope, and that unless he proved that the defendant should have a verdict, admitted that such person was in charge of the work, and was not a fellow servant.

[Ed. Note.—For other cases, see Master and Servant, Cent. Dig. § 1165; Dec. Dig. § 294 (6).\* 6 Va.-W. Va. Enc. Dig. 11.]

**5. Master and Servant (§ 222 (1)\*)—Action for Injury—Assumption of Risk.**—In a servant's action for injury where he was ordered by the master's representative in authority over him to go from a trestle section to another section on the tackle ropes connecting them, it was the servant's duty to obey, unless the act was obviously attended by such danger that a man of common prudence would not have undertaken it.

[Ed. Note.—For other cases, see Master and Servant, Cent. Dig. § 648; Dec. Dig. § 222 (1).\* 9 Va.-W. Va. Enc. Dig. 699.]

**6. Appeal and Error (§ 999 (3)\*)—Verdict—Conclusiveness.**—In such action, where the evidence was conflicting, and defendant by an instruction submitted to the jury the question whether such crossing upon the ropes was so obviously dangerous that no prudent man would have attempted it, the jury's verdict for plaintiff was conclusive on that question.

[Ed. Note.—For other cases, see Appeal and Error, Cent. Dig. §§ 3923, 3924; Dec. Dig. § 999 (3).\* 1 Va.-W. Va. Enc. Dig. 620.]

Error to Circuit court, Bath County.

Action by T. C. Donald against the Millboro Lumber Company, Incorporated. Judgment for plaintiff, and defendant brings error. Affirmed.

*Geo. A. Revercomb*, of Covington, and *H. H. Byrd*, of Warm Springs, for plaintiff in error.

*Curry & Curry and Timberlake & Nelson*, all of Staunton, for defendant in error.

---

\*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.